



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Memorial Compounding RX

Respondent Name

Hartford Fire Insurance Company

MFDR Tracking Number

M4-17-0430-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

October 18, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The attached bills were denied by the carrier. Reconsideration was submitted but denied/or never processed."

Amount in Dispute: \$990.88

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Our investigation has found the following: Original bill received 4/5/16 & 4/14/16 and denied Auth Per Express Scripts, Per Review of medical fee dispute no additional monies recommended. Per Drug Review Nurse: The submitted prescription is for a topical compound that does not currently have the support of evidence-based medical guidelines for efficacy and safety."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 14th and 30th, 2016	Pharmacy Services - Compounds	\$990.88	\$990.88

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical benefits.
3. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
4. 28 Texas Administrative Code §134.540 sets out the closed formulary requirements for claims subject to certified networks.

5. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 54 – Claim/service denied because procedure/treatment has not been deemed ‘proven to be effective’ by the payer.

Issues

1. Did Hartford Fire Insurance Company raise a new defense pursuant to 28 Texas Administrative Code §133.307?
2. Is Memorial Compounding RX entitled to reimbursement for the compound in question?

Findings

1. In its position statement, Hartford Fire Insurance Company, “Per review of medical fee dispute no additional monies recommended. Per Drug Review Nurse: The submitted prescription is for a topical compound that does not currently have the support of evidence-based medical guidelines for efficacy and safety.”

28 Texas Administrative Code §133.307(d)(2)(F) states, in relevant part, “The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review.”

Review of the submitted documentation finds that Hartford Fire Insurance Company failed to present a medical efficacy denial to Memorial Compounding RX in accordance with 28 Texas Administrative Code §133.240 prior to the date the request for medical fee dispute resolution (MFDR) was filed. The division concludes that this defense presented Hartford Fire Insurance Company’s position statement shall not be considered for review because this assertion constitutes a new defense pursuant to 28 Texas Administrative Code §133.307(d)(2)(F).

2. Memorial Compounding RX is seeking reimbursement of \$990.88 for a compound dispensed on March 14, 2016.

28 Texas Administrative Code §134.503 applies to the compounds in dispute and states, in pertinent part:

- (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
 - (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
 - (A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
 - (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
 - (A) health care provider; or
 - (B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

The compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 Texas Administrative Code §134.502(d)(2). Each ingredient is listed below with its corresponding reimbursement amount as applicable.

Ingredient	NDC & Type	Price/ Unit	Total Units	AWP Formula §134.503(c)(1)	Billed Amt §134.503 (c)(2)	Lesser of (c)(1) and (c)(2)
March 14, 2016						
Compound Fee	NA	\$15.00	1	\$15.00	\$15.00	\$15.00
Flurbiprofen	38779036209 Generic	\$36.58	6	\$278.35	\$210.90	\$210.90
Meloxicam	38779274601 Generic	\$194.67	1	\$243.34	\$35.04	\$35.04
Mefenamic Acid	38779066906 Generic	\$123.60	1.8	\$313.00	\$146.90	\$146.90
Baclofen	38779038809	\$35.63	3	\$137.61	\$102.60	\$102.60
March 30, 2016						
Compound Fee	NA	\$15.00	1	\$15.00	\$15.00	\$15.00
Flurbiprofen	38779036209 Generic	\$36.58	6	\$278.35	\$210.90	\$210.90
Meloxicam	38779274601 Generic	\$194.67	1	\$243.34	\$35.04	\$35.04
Mefenamic Acid	38779066906 Generic	\$123.60	1.8	\$313.00	\$146.90	\$146.90
Baclofen	38779038809	\$35.63	3	\$137.61	\$102.60	\$102.60
					Total	\$1,020.88

The total reimbursement is therefore \$1,020.88. The requestor is seeking \$990.88. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$990.88.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$990.88, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

		December 15, 2017
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.